

AN ACT

ENTITLED, An Act to revise certain provisions regarding the regulation of fireworks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-37-1 be amended to read as follows:

34-37-1. Terms used in this chapter mean:

- (1) "Consumer fireworks," fireworks designed primarily to produce visible effects by combustion, that must comply with the construction, chemical composition and labeling regulations promulgated by the U.S. Consumer Product Safety Commission (CFR Title 16 - Commercial Practices, Part 1507), effective January 1, 1998 and that are enumerated in the American Pyrotechnics Association Inc., Standard 87-1, April, 1993 edition;
- (2) "Retailer," includes every person engaged in the business of making sales of fireworks at retail;
- (3) "Retail sale," the sale of fireworks to any person not licensed to sell fireworks or for any purpose other than for resale;
- (4) "Sale," any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration;
- (5) "Wholesaler," any person engaged in the business of making sales of fireworks to retailers for resale to consumers.

Section 2. That chapter 34-37 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this chapter, an approved exit is a continuous and unobstructed means of egress to a public way. Exit doors shall be of the pivoted or side-hinged swinging type and shall swing in the direction of exit travel. Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort.

Section 3. That § 34-37-2 be amended to read as follows:

34-37-2. No person may sell, hold for sale, or offer for sale, as wholesaler or retailer any fireworks in this state unless such person has first obtained a license as a wholesaler or retailer. Application for a license as wholesaler or retailer shall be made to the Department of Commerce and Regulation on forms to be prescribed by it. Each application shall be accompanied by the required fee, which shall be five hundred dollars for a wholesaler's license, and twenty-five dollars for a retailer's license. Each application for a license as a retailer in any year must be received by the department no later than the fifteenth day of June of that year. Any application received after that date shall be denied by the department and returned to the applicant together with any application fee submitted. The license expires on the fourteenth day of June annually and is renewable annually. The license shall at all times be displayed at the place of business of the holder thereof. The funds received under the provisions of this section shall be deposited in the general fund.

Section 4. That § 34-37-3 be amended to read as follows:

34-37-3. Any person who manufactures, uses or disposes to another, with or without consideration, so as to endanger the safety of others, any consumer fireworks made wholly or in part of dynamite, nitroglycerin, or giant powder, is guilty of a Class 1 misdemeanor.

Section 5. That § 34-37-5 be amended to read as follows:

34-37-5. Permissible fireworks are consumer fireworks as enumerated in Chapter 3 of the American Pyrotechnics Association Inc., Standard 87-1, 1993 edition and that comply with labeling regulations promulgated by the U.S. Consumer Product Safety Commission (CFR Title 16 - Commercial Practices Part 1507), effective January 1, 1998.

Section 6. That § 34-37-6 be amended to read as follows:

34-37-6. Before any additional permissible fireworks not enumerated in § 34-37-5 may be sold, held for sale, or offered for sale in this state, they shall be submitted to the Department of Commerce and Regulation for examination to determine their compliance with CFR Title 16, Commercial Practices, Part 1507, effective January 1, 1998, and the American Pyrotechnics Association Inc.,

Standard 87-1, 1993.

Section 7. That § 34-37-10.2 be amended to read as follows:

34-37-10.2. If the general public occupies a structure where fireworks are being displayed or sold, two or more approved exits shall be provided. If the general public does not occupy a structure that displays or sells fireworks, one or more approved exits shall be provided.

Section 8. That § 34-37-10.5 be amended to read as follows:

34-37-10.5. No licensee may have on the premises any device, apparatus, receptacle, or burner from which an open flame is emitted. Each licensee shall in the conduct of the business of selling fireworks keep and maintain upon the premises a fire extinguisher bearing a rated capacity of at least 2-A.

Section 9. That § 34-37-13 be amended to read as follows:

34-37-13. Nothing in this chapter prohibits the use of public display of fireworks. However, any person, association, organization, municipality, county, firm, partnership or corporation, before making such public display of fireworks shall secure a written permit from the governing board of the municipality, township or county where the public display is to be fired, and shall have purchased fireworks for the display from a licensed wholesaler under this chapter. Any public display shall comply with the National Fire Protection Association Standard 1123, 1995 edition.

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I certify that the attached Act
originated in the

SENATE as Bill No. 61

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 61

File No. _____

Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor
=====

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State